



NEW ORLEANS

NASFAA CONFERENCE 2002

The NASFAA Conference 2002 ♪ July 21-24 ♪ New Orleans, LA





Sessions S112, S112R and S112R2

Regulatory Changes Now and Again





Regulatory Changes Now and Again

This session will provide an update on the current rulemaking process, pending regulatory changes, and a review of the issues being discussed as the Department approaches Reauthorization.





Update on Current Rulemaking Process

- HEA section 492 requires negotiation of proposed Title IV regulations
- December 5, 2001 Federal Register Notice
 - Announced ED's intent to regulate
 - Requested nominations for negotiators
 - Announced public meeting on process and procedures





Update on Current Rulemaking Process

- 2002 Negotiated Rulemaking Goals:
 - Advance Administration's Management Reform Priorities
 - Promote Active, But Limited, Role for Federal Government:
 - Empower citizens
 - Ensure results through accountability
 - Promote innovation through competition





Update on Current Rulemaking Process

- NegReg Goals prioritized changes that:
 - Reduce expense and compliance problems
 - Reduce program operating costs through greater use of e-commerce
 - Simplify process and improve service
 - Improve program management and integrity





Update on Current Rulemaking Process

- Two negotiating teams
 - Team 1 – Loan Issues
 - Team 2 – Other Program Issues
- Negotiators represent coalitions of identified “constituencies”
- Emphasis on “practitioner” negotiators





Update on Current Rulemaking Process

- 2002 Negotiated Rulemaking Timetable
 - Three weeks of negotiations
 - NPRMs that allow for 60 day comment period
 - Final regulations by November 1, 2002
 - Effective date of final regulations July 1, 2003





Update on Current Rulemaking Process

- Committee Organizational Protocols
- Responsibilities of Negotiators and Facilitators
- Reaching Consensus





Update on Current Rulemaking Process

- 2002 Negotiated Rulemaking Agenda
 - Streamline current Federal student financial assistance program regulations
 - The FED UP Initiative
 - Department proposals
 - Other Community proposals





Team I – Loan Issues





Title IV Loan Programs - Regulatory Proposals

- Perkins, FFEL and Direct Loan Proposals
 - Eliminate rehabilitation of judgment accounts
 - Storage of electronically signed notes
 - Clarify monthly payment amount to calculate economic hardship deferments
 - Changes in Initial and Exit Counseling





Title IV Loan Programs - Regulatory Proposals

- FFEL and Direct Loan Proposals
 - Clarification of loan limits for certain programs
 - Simplify process for granting unemployment deferments
 - Allow for discharge of consolidation loans in certain situations





Title IV Loan Programs – Regulatory Proposals

- Federal Perkins Loan Program Proposals
 - Provide for the use of a Perkins MPN
 - Increase write-off amount on low-balance loans
 - Require transfer of revolving fund/loan portfolio to ED when withdrawing from program





Title IV Loan Programs – Regulatory Proposals

- Federal Perkins Loan Program Proposals
 - Coordination of payments on loans from different schools at borrower's request
 - Copy of prom note at exit counseling at borrower's request
 - Assessment of late fees by school optional





Title IV Loan Programs – Regulatory Proposals

- Federal Perkins Loan Program Proposals
 - Credit bureau reporting requirement clarified
 - Litigation review and threshold revised
 - Conforming Changes to previous regs





Title IV Loan Programs – Regulatory Proposals

- FFEL Program Proposals
 - Revise definition of eligible “lender”
 - Repayment Requirements amended
 - 1ST payment due date standardized
 - Written notice to extend repayment eliminated
 - Anticipated graduation date clarified





Title IV Loan Programs – Regulatory Proposals

- FFEL Program Proposals(cont.)
 - Forbearance Simplification
 - Allow discretionary forbearance without written agreement
 - Reduce frequency of lender contact with borrower in forbearance
 - Authorize discretionary forbearance for natural disasters and local/national emergencies





Title IV Loan Programs – Regulatory Proposals

- FFEL Proposals (cont.)
 - Extend sovereign immunity to State guaranty agencies in bankruptcy proceedings
 - Allow guaranty agency up to 90 days to make a disability claim determination





Title IV Loan Programs – Regulatory Proposals

- Direct Loan Program Proposals
 - Definition of Default for Cohort Default Rate Calculations
 - Expiration of Master Promissory Note





Team II – Program & Other Issues





Program & Other Issues

- Team II faced 25 agenda items
 - 10 Items: Outside Regulatory Process
 - 1 Item: Removed from the Agenda
 - 90/10 Computations
 - 14 Items: Regulatory Language





Program & Other Issues - Outside Regulatory Process

- Electronics in the administration of the Title IV programs
- Electronic signatures on timesheets in the FWS program
- 50% grant overpayment protection in the Return of Title IV funds
- Equity in athletics disclosure act reporting requirements
- FWS community service waivers





Program & Other Issues - Outside Regulatory Process

- Computers in cost of attendance
- Regaining student eligibility
- Overaward tolerances for the Title IV programs
- Effect of enrollment of home-schooled students on institutional eligibility
- 50% rules for telecommunications and correspondence for institutional eligibility





Program & Other Issues - Regulatory Proposals

“Quick Fixes”

- Cash management – return receipt requirement eliminated
- Clarification of the 2 year rule
- Flexibility for proprietary schools employing FWS students





Program & Other Issues - Regulatory Proposals

- Change of Ownership
 - Expanded Definition of Family Member
 - Broadened List of Transactions that are not considered to be a change of ownership
- “12 Hour Rule”
 - Apply 1 day rule to all programs
 - Definitions of academic year and eligible program
 - Modified disbursement rules to include calendar time component





Program & Other Issues - Regulatory Proposals

Incentive Compensation

General Rule

As part of the program participation agreement, an institution agrees that it will not provide any commission, bonus, or other incentive payment based directly or indirectly upon success in securing enrollments or financial aid to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding the awarding of Title IV, HEA program funds, except that this limitation does not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Title IV, HEA program funds.





Program & Other Issues - Regulatory Proposals

Incentive Compensation

- A non-exhaustive list of acceptable activities and arrangements that would not violate the general rule:
 - Fixed compensation
 - Non-Title IV eligible programs
 - Contracts between an institution and an employer
 - Profit sharing plans
 - Completion of program or one academic year, whichever is shorter





Program & Other Issues - Regulatory Proposals

Incentive Compensation

- Non-exhaustive list (con't):
 - Pre-enrollment activities
 - Managerial Employees
 - Token gifts
 - Profit distributions
 - Internet based recruitment
 - Payments to 3rd parties





Program & Other Issues - Regulatory Proposals

Return of Title IV Aid

- Clarification of who determines whether an institution is required to take attendance
- Simplify leave of absence definition and allow multiple leaves of absence not to exceed 180 days in any 12-month period
- Clarification of timely return of Title IV aid funds





Program & Other Issues - Regulatory Proposals

- Clarification of late disbursement requirements and provisions for “no-fault” late disbursements
- Consistent requirements for handling Title IV overpayments including a provision under which a student who owes a overpayment of less than \$25 will not lose eligibility to receive additional Title IV aid





Program & Other Issues - Regulatory Proposals

- Elimination of the provision that limits the duration of a passing score on an approved ATB test to 12 months before a student initially receives Title IV aid
- Elimination of the requirement that an institution award student financial aid in an established order for students who are eligible for a GEAR UP scholarship





Contact Information

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